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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Erik Manuel Estrada,

Defendant.

CR 22-01214-JCH-JR-001

**GOVERNMENT'S SENTENCING
MEMORANDUM**

The United States of America, through its attorneys, respectfully submits its sentencing memorandum in the above-captioned matter. The sentencing hearing is currently scheduled for March 2, 2023.

Presentence Report Calculations

The presentence report (PSR) identifies a total offense level of 15 and a criminal history category I1 for the defendant resulting in a sentencing guideline range of 18 to 24 months. The government agrees with these calculations. Under the plea agreement, the defendant's sentence cannot exceed the bottom of the applicable guideline range.

Sentencing Factors

Title 18 U.S.C. § 3553(a) states that when imposing a sentence, a court shall consider "the nature and circumstances of the offense and the history and characteristics of

1 the defendant.” The sentence imposed shall reflect the seriousness of the offense, provide
2 just punishment, afford adequate deterrence to further criminal conduct, and protect the
3 public from further crimes of the defendant. 18 U.S.C. §3553(a)(2). The sentence shall also
4 consider “the need to avoid unwarranted sentence disparities among defendants with
5 similar records, who have been found guilty of similar conduct.” 18 U.S.C. §3553(a)(6).

6 The defendant and his wife (who is also his codefendant) were purchasing firearms
7 for minors and others during an eight-month period. The defendant stated that he bought
8 firearms for people who were too young to purchase firearms. The defendant admitted that
9 he knew he was buying the firearms for minors who were too young to legally purchase
10 them. The defendant admitted that he lied about being the actual purchaser of the firearms
11 and about his address when completing the Form 4473 for the firearms.

12 Straw purchasing and transfer of firearms to prohibited persons, including minors,
13 contributes to gun violence in this country. In 2019, the USDOJ Bureau of Justice Statistics
14 issued a study about the connection between firearms and violent crimes. “Source and Use
15 of Firearms Involved in Crimes: Survey of Prison Inmates, 2016,
16 <https://bjs.ojp.gov/content/pub/pdf/suficspi16.pdf> (last accessed 2/21/23). The study
17 focused on firearm possession of prisoners during the offenses that led to their incarceration
18 at both the federal and state level. Among prisoners who possessed a firearm during the
19 commission of an offense, 90% did not obtain the firearm from a retail source. *Id.* p. 1.
20 When a firearm is purchased from federal firearm licensees, a background check is
21 conducted that is intended to prevent minors and other prohibited persons from purchasing
22 firearms. Unscrupulous actors, like the defendants, who purchase firearms with the
23 intention of transferring them to people who are prohibited by law from possessing
24 firearms, bypass these safeguards. Without straw purchasers, it would be much more
25 difficult for prohibited persons to get firearms.

26 This is the defendant’s first felony conviction. He has been on pretrial release since
27 June of 2022. He has complied with his conditions of release, including testing negative
28 for illicit drug use (except for one use of marijuana) and participating in both substance

1 abuse and mental health treatment. The defendant is also actively working on completing
2 a reunification plan to regain custody of his daughter. He is also has full-time employment.

3 **Recommendation**

4 The United States agrees with the reasoning and recommendation in the PSR and
5 respectfully requests that the Court impose a sentence of 5 years of probation. The
6 defendant's performance on pretrial release indicates that he complies with the Court's
7 orders and is likely to be successful on probation. Such a sentence would be consistent with
8 § 3553(a) factors. It would reflect the seriousness of the offense, promote respect for the
9 law, and deter the defendant from committing further crimes.

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12 Respectfully submitted this 23rd day of February, 2023.

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14 GARY M. RESTAINO
United States Attorney
District of Arizona

15
16 *s/Sarah B. Houston*

17 SARAH B. HOUSTON
Assistant U.S. Attorney

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19 Copy of the foregoing served electronically or by
other means this 23rd day of February, 2023, to:

20 All ECF Participants
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